

PRESIDING OFFICER'S
RULING NO. N2012-1/25

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Mail Processing Network
Rationalization Service Changes, 2012

Docket No. N2012-1

PRESIDING OFFICER'S RULING CONCERNING AMERICAN POSTAL WORKERS
UNION, AFL-CIO, MOTION TO COMPEL PRODUCTION OF A POLICY WITNESS
AND RESPONSES TO INTERROGATORIES

(Issued March 14, 2012)

On March 2, 2012, the American Postal Workers Union, AFL-CIO, filed a motion to compel the Postal Service to produce a policy witness and to respond to interrogatories APWU/USPS-3-6.¹ The policy witness is requested for the purpose of explaining the interaction of the current proposal with the proposals contained in Docket Nos. N2011-1 (Retail Access Optimization Initiative, 2011), N2010-1 (Six-Day to Five-Day Street Delivery and Related Service Changes), and R2010-4 (Exigency Request).

On March 9, 2012, the Postal Service filed responses to institutional interrogatories APWU/USPS-3-6.² The responses indicate that no one at the Postal Service has conducted analysis of the impact of the current proposals with the proposals contained in Docket Nos. N2011-1, N2010-1, and R2010-4. The Postal Service points to library references USPS-LR-N2012-1-10 and USPS-LR-N2012-1-

¹ American Postal Workers Union, AFL-CIO, Motion to Compel the Postal Service to Produce a Policy Witness and Respond to Interrogatories APWU/USPS-3-6, March 2, 2012 (Motion).

² Responses of the United States Postal Service to American Postal Workers Union Interrogatories (APWU/USPS-3 through 8), March 9, 2012.

NP14 as possibly relevant to showing the extent of Postal Service consideration of this issue. The library references include market research undertaken, but abandoned before completion.

On March 9, 2012, the Postal Service also filed a reply in opposition to the Motion.³ The Postal Service asserts that the responses to interrogatories APWU/USPS-3-6 reveal the limited extent to which anyone at the Postal Service has looked into the interaction of the various initiatives. Postal Service Reply at 1. The Postal Service states: “[t]he Postal Service has not undertaken a policy review at the levels that apparently interest APWU, and about which it seeks to compel the appearance of a witness to satisfy its own interest.” *Id.* at 2. The Postal Service contends that it does not know which of its initiatives eventually will go forward. *Id.* at 3. The Postal Service further argues that analysis of the interactions of the various proposals is not necessary for the evaluation of the specific service changes before the Commission. *Id.* at 4.

APWU filed a reply to the Postal Service which contends that someone at the Postal Service must have considered the inter-relationship of the Postal Service’s various initiatives.⁴ APWU attached a Postal Service slide presentation titled “Plan to Profitability, 5 Year Business Plan”, February 16, 2012, to its reply. APWU submits the presentation as a demonstration that the Postal Service has considered an integrated approach to its major initiatives.

Analysis. Interveners have the opportunity to explore issues through discovery. APWU has chosen to explore the issue of the inter-relationship of several Postal Service initiatives with both Postal Service witness Williams and the Postal Service as an institution. APWU contends that witness Williams has been unable to provide insight on the interaction of various Postal Service proposals. Furthermore, APWU asserts that

³ Reply of the United States Postal Service to Motion of the American Postal Workers Union to Produce a Policy Witness, March 9, 2012 (Postal Service Reply).

⁴ American Postal Workers Union, AFL-CIO Response to USPS Reply to APWU Motion to Produce a Policy Witness, March 13, 2012. The reply was preceded by Motion of American Postal Workers Union, AFL-CIO for Leave to File Response to USPS Reply to APWU Motion to Produce a Policy Witness, March 12, 2012. The motion is granted.

the Postal Service had not yet responded to institutional interrogatory requests on this matter. Without the benefit of reviewing the late filed responses to interrogatories APWU/USPS-3-6, APWU states: "If the Postal Service has information relevant to this examination, it must be produced." Motion at 2.

The Postal Service subsequently provided responses to interrogatories APWU/USPS-3-6, which indicate the Postal Service has not analyzed the interactions of interest to APWU. The Postal Service cannot be compelled to produce what it asserts as an institution does not exist. With the filing of responses, the portion of the Motion concerning a request to compel responses appears moot.

There is, however, an opportunity for the Postal Service to provide further clarification to its responses to interrogatories APWU/USPS-3-6. APWU has identified a Postal Service slide presentation titled Plan to Profitability, 5 Year Business Plan, February 16, 2012. The plan discusses several Postal Service initiatives. The Postal Service is directed to supplement its responses to interrogatories APWU/USPS-3-6 by confirming that in developing this presentation the Postal Service did not consider any synergies or negative impacts caused by the inter-relationship of the various initiatives, and that the various initiatives are in fact autonomous. If this cannot be confirmed, please provide further explanation.

APWU continues: "To the extent that the Postal Service has not previously evaluated the combined impacts it should be required to do so now and provide a witness capable of addressing these issues now." *Id.* at 2-3.

The Postal Service is responsible for determining its approach to presenting its proposals before the Commission. The Postal Service, in this respect, controls its own destiny. In most instances, the Postal Service should not be forced to prepare analyses or evidence for intervenors. The Postal Service assertion that it has not previously considered an issue is a factual response to the questions. The request to compel the production of a policy witness is denied.

This Ruling is not intended to address whether or not testimony concerning the inter-relationship of various Postal Service initiatives would be informative or even

essential to the Commission's consideration of the Postal Service's service standard proposal. The Ruling is limited to stating that the Postal Service is not responsible for developing evidence for intervenors. The Postal Service always may supplement its testimony if it is persuaded that it would be beneficial. Intervenors also have the opportunity to sponsor testimony and to address issues on brief that they consider meritorious.

RULING

1. The American Postal Workers Union, AFL-CIO, Motion to Compel the Postal Service to Produce a Policy Witness and Respond to Interrogatories AWPU/USPS-3-6, filed March 2, 2012, is moot in part, and denied in part.
2. The Postal Service should provide supplemental responses to interrogatories APWU/USPS-3 through 6 by the close of business on March 16, 2012, as directed in the body of this Ruling.

Ruth Y. Goldway
Presiding Officer